

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks is respectfully requested.

Claim amendments/Status

In this submission, claim 11 has been cancelled and new independent claim 12 has been presented for examination. Support for these claims is found in the specification as originally filed. Claims 5 and 9 were previously cancelled.

Claims 1-4 and 6-8, 10 and 12, are therefore pending in this application.

Declaration

A declaration by one of the inventors named on this application, is submitted herewith. This declaration avers to the unexpected results derived with the claimed subject matter.

Rejections under 35 USC § 112/101

The rejection of claims 1-4, 6-8 and 10 under 35 USC § 112 and claim 1, under 35 USC § 101 are both respectfully traversed.

In this response, claim 1 has been amended to assume the form of a single step claim thus obviating the basis of both the §112 and §101 rejections.

Rejection under 35 USC § 102/103

- 1) The rejection of claims 1-4 and 6-8 under 35 USC §102(b) as being anticipated by or, in the alternative, under 35 USC §103(a) as obvious over US 6,235,392 issued to Luo et al.;
- 2) The rejection of claim 10 under 35 USC §102(b) as being anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Luo et al.; and
- 3) The rejection of claim 11 under 35 USC §102(b) as being anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Luo et al.; are summarily traversed.

The 'use' now clearly claimed in the amended claim 1 is submitted as being novel over the cited prior art. More specifically, Luo (6,235,392) does not describe cellulose fibres with a ratio V of 2.2 or less and a titre of from 6 dtex to 25 dtex. Moreover, there is no mention in this document concerning the use of cellulose fibres in the fields of application as specified in claim 1.

Claim 1 is also based on an unexpected result. See the Declaration submitted with this response. That is to say, as averred to in the Declaration, it must be regarded as surprising that, in Lyocell fibres having a titre of more than 6 dtex, the ratio V suddenly drops down to values of 2.2 or less as indicated by the charts which are appended herewith.

This is not expected and without this discovery being made, the claimed subject matter cannot be held to be "inherent" in the manner advanced in this rejection.

More specifically, Fig. 1 of the instant application renders it apparent that Lyocell fibres having a titre of up to and slightly more than 5 dtex exhibit a ratio V of more than 2.5. Beginning with a titre of 6 dtex, said ratio suddenly drops down to 2.2 or below. This is demonstrated more clearly in the Figure attached as Annex A to the Declaration submitted herewith. The fibres examined according to this diagram were all produced under the same conditions as described in the example part of the present patent application.

As is apparent from the specification of the present application and as advanced in the Declaration, Lyocell fibres having a higher titre and a balanced ratio V surprisingly exhibit excellent properties with respect to use in carpets and similar products. The flexural stiffness which is increased in comparison to that of viscose fibres should in particular be mentioned.

As already advanced above, the cited prior art includes no teaching with respect to the fibres used according to the invention. Thus, the effect according to the invention regarding the particular applicability of the fibres according to the invention for the products specified in claim 1 could even less be derived from the prior art documents.

The rejection of claim 10 is traversed for the reasons advanced in connection with claim 1. The rejection of claim 11 is rendered moot by its cancellation.

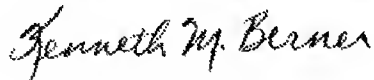
Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
LOWE HAUPTMAN HAM & BERNER, LLP



Kenneth M. Berner
Registration No. 37,093

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
Date: February 17, 2010
KMB/KT/bjs